



Chief judge orders that prior labor certifications remain valid

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A sweeping decision by the District Court in the high profile H2B visa case. Chief Judge Frances Tydingco-Gatewood has ordered federal immigration officials to revert back to their previous practice, where foreign labor applications were more routinely approved. The ruling has huge implications for the local construction industry.

Contractors complained about the crippling effect of a what they charged was a change in practice by the U.S. citizen and immigration service, in which foreign labor visa applications went from decades of nearly 100-percent approvals, to the last few years of nearly 100-percent denials.

As the workers dwindled from a high of ,1500 to just a handful now, they got the relief they were seeking from the court.

Attorney for the contractors, Jeffrey Joseph, said, "The injunction takes us back to where we were prior to 2015, and that status quo will be maintained until the case is resolved."

In her order, the Judge wrote that the recent course by USCIS "prompts serious legal questions and poses very real threats to the parties, the island, and the nation." She went on, "these rare circumstances call for rare relief...", adding, "Our argument all along has been that either the government has changed the rules that we play by in which case there should have been notice and comment and formal rulemaking procedures, or this is just a new interpretation that the government is arbitrarily deciding we're changing things."

The order affects about 300 visa applications by the plaintiffs in the case, but it also applies prospectively so in theory it sets no limits, "It's a huge relief to the plaintiffs and the importers who relied on the H2-b program for years because now they can get workers back to work and start working on those projects again," Joseph said.

"I think the judge's legal reasoning is solid and sound and even if the government does appeal, given the decision of Judge Gatewood, I'm confident of our chances on appeal."



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